S.B. CIVIL WRIT PETITION NO.5396/2004
Surjeet Kaur and another. vs. Smt. Shanti Devi & ors.

Date : 9.12.2004

**HON'BLE MR. PRAKASH TATIA, J.**

Mr. B.S. Kohinoor, for the petitioners.

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Heard learned counsel for the petitioners.

The petitioners are aggrieved against the order dated 6.11.2004 by which the trial court dismissed the petitioners' application filed under Order 41 Rule 5 C.P.C. Learned counsel for the petitioners submits that the petitioners pleaded their possession over the land in dispute from the date of purchase of land by them and it is continuing whereas the Court has framed the issue to the effect that the plaintiffs' possession was from the date of purchase of land and by the use of last work in the issue, an impression can be gathered that after some time, the petitioners lost their possession and the issue has been framed in past tense in place of continuous tense.

The apprehension of the petitioner appears to be not well founded because the issues are framed on the basis of the pleadings not the pleadings are required to be read as issue framed. Therefore, if the pleadings are clear, than the issue which is contested by both the parties is apparently clear and some typing mistake cannot govern the issue which may be contrary to the pleadings. No illegality is seen in the impugned order so as to incline this Court to invoke its writ jurisdiction.

In view of the above, I do not find any reason to interfere in the impugned order. Accordingly, this writ petition having no force is hereby dismissed.

**(PRAKASH TATIA), J.**

S.Phophaliya